United Nations HRI/MC/1998/6

International Human Rights Instruments

Distr.: General
3 September 1998

Original: English

Tenth meeting of persons chairing human rights treaty bodies
Geneva, 14–18 September 1998

Integrating the gender perspective into the work of United Nations human rights treaty bodies

Report by the Secretary-General

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I. Introduction

1. During their eighth meeting, held at Geneva from 15 to 19 September 1997, the persons chairing the United Nations human rights treaty bodies invited the Division for the Advancement of Women to prepare a background paper analysing the measures that have been and should be taken by the treaty bodies in order to integrate gender perspectives into their work.[1] The General Assembly, in resolution 52/118 of 12 December 1997, endorsed the request for the study, to be used by the United Nations High Commissioner for Human Rights and the human rights treaty bodies as a guide to incorporating gender perspectives into their work. The Commission on Human Rights, in its resolution 1998/27 of 17 April 1998, also welcomed the proposed study. The present report has been prepared in response to these requests.

2. The report consists of two main parts. The first, on background and context, sets the context within which attention to gender by the human rights treaty bodies is to be considered. To that end, recent developments within the United Nations system to increase attention to the human rights of women and the gender dimensions of human rights are reviewed. Conceptual aspects of the protection and promotion of human rights from a gender perspective are also examined in this part of the report.

3. The second main part, on steps already taken by human rights treaty bodies, seeks to assess progress made by the human rights treaty bodies in monitoring women's enjoyment of human rights within the framework of the respective treaties. In the context of trends elsewhere in the United Nations system, the analysis assesses to what degree treaty bodies have recognized that gender is an important dimension in defining the substantive content of human rights and impacts on the enjoyment of rights by women. To that end, the second part of the report summarizes steps taken by human rights treaty bodies to increase attention to gender aspects in their work. Based on the treaty bodies' review of States parties' reports since 1993, as reflected in summary records, concluding comments and general comments/recommendations, this part analyses how gender considerations are shaping the work of treaty bodies. For each of the treaty bodies, suggestions are made and areas are identified where further efforts are required. The report concludes with recommendations for action by various actors, primarily by the treaty bodies themselves, to increase attention to the gender dimension in the realization of human rights for all.

II. Background and context

A. Human rights of women and gender in the context of United Nations conferences and their follow-up

4. Three interlinked and mutually reinforcing trends have emanated from recent global United Nations conferences that are of particular relevance for the present study:

(a) Attention to the equal status and human rights of women in general human rights activities has expanded significantly since the World Conference on Human Rights held at Vienna from 14 to 25 June 1993;

(b) Recognition of the impact of women's gender roles on the achievement of women's equality, including the full enjoyment of their human rights, is increasingly shaping the development and implementation of policies and programmes in all sectoral areas in which the United Nations has a mandate;

(c) A growing trend among entities of the United Nations system to emphasize a human rights — or rights-based — approach to planning and programming.

1. The equal status and human rights of women

5. The World Conference on Human Rights fully articulated the need to integrate the human rights of women into the work of human rights treaty bodies, stating that:

> "Treaty monitoring bodies should include the status of women and the human rights of women in their deliberations and findings, making use of gender-specific data. States should be encouraged to supply information on the situation of women *de jure* and de facto in their reports. ... Steps should also be taken ... to ensure that the human rights activities of the United Nations regularly address violations of women's human rights, including gender-specific abuses".[2]

6. Since their fifth meeting in September 1994, in follow-up to a recommendation by the Commission on the Status of Women,[3] the integration of a gender perspective in the work of the treaty bodies has been a regular theme of the meetings of the chairpersons of the human rights treaty bodies. The chairpersons have stated their support for the relevant recommendations contained in the Vienna Declaration and Programme of Action and have proposed a number of recommendations for action by each treaty body in order to effectively integrate gender considerations into their work practices. The chairpersons' discussion at their

eighth meeting in 1997 focused on the reform of the treaty system and also included discussion of gender perspectives.[4]

2. Mainstreaming a gender perspective

7. In the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women, held in Beijing from 4 to 15 September 1995, Governments committed themselves to the promotion of an active and visible policy of mainstreaming a gender perspective into all policies and programmes, including with regard to human rights of women.[5] The Platform also emphasized that the goal of full realization of human rights for all required explicit attention to the systematic and systemic nature of discrimination against women in the application of international human rights instruments.[6]

8. Since the convening of the Vienna and Beijing conferences, steps to integrate a gender perspective within the United Nations human rights framework have been taken in various forums. The General Assembly and the Economic and Social Council have given detailed guidance with regard to the principles and practical implications of the gender approach. Most notably, the Economic and Social Council adopted agreed conclusions 1997/2 on "Mainstreaming a gender perspective into all policies and programmes in the United Nations system".[7] These provided a definition of the concept of gender mainstreaming,[8] a set of principles and specific recommendations for action by intergovernmental machinery and at the institutional level.[9] Agreed conclusions 1997/2 also make repeated reference to the need to mainstream a gender perspective systematically in areas including human rights.[10]

9. In its review of the critical area of concern "human rights of women", the Commission on the Status of Women, at its forty-second session, recognized the central role of human rights treaty bodies in strengthening enjoyment of human rights by women. It therefore invited treaty bodies, within their mandates, "to continue to monitor a better understanding of the rights contained in international human rights instruments and their particular significance to women". The Commission on Human Rights has decided to reflect a gender perspective under all its agenda items while also including a standing item on integration of human rights of women and a gender perspective.[11]

3. The rights-based approach

10. In July 1995, the United Nations Development Fund for Women and the (then) Centre for Human Rights organized an expert group meeting in Geneva on the development of guidelines for the integration of a gender perspective into United Nations human rights activities and programmes.[12]

11. In 1996, the United Nations Population Fund, in collaboration with the Division for the Advancement of Women and the Office of the United Nations High Commissioner for Human Rights, organized a round table on "Human Rights Approaches to Women's Health, with a focus on Reproductive and Sexual Health Rights". Experts from all of the human rights treaty bodies attended the meeting, as did representatives of the United Nations agencies, non-governmental organizations, as well as other experts and observers. It was the first time that a group of this nature had met to discuss the interpretation of women's rights relating to a particular theme. The meeting formulated 32 recommendations for improving women's health rights, several of which focused directly upon measures to be taken by the human rights treaty bodies.[13]

12. The United Nations Population Fund/Division for the Advancement of Women/Office of the United Nations High Commissioner for Human Rights round table on human rights approaches to women's health is indicative of the growing trend among entities of the United Nations system to emphasize a human rights — or rights-based — approach to planning and programming.[14] This trend was also apparent in a special discussion of senior United Nations officials at the coordination segment on "follow-up to and implementation of the Vienna Declaration and Programme of Action", held by the Economic and Social Council in July 1998.[15]

13. In response to the increased emphasis on human rights throughout the United Nations system, and recognizing that women's enjoyment of human rights is conditioned by their gender roles, the Administrative Committee on Coordination Inter-Agency Committee on Women and Gender Equality is convening a workshop to clarify the understanding and practical implications of a rights-based approach to women's empowerment and advancement. It will provide a forum for exchanging experiences and examining ways to merge protection and promotion of human rights and the realization of gender equality at the programmatic and policy level.[16]

B. Reform of the human rights treaty system

14. Over the past decade the human rights treaty system has undergone critical review and discussion about reform is continuing. The reports of the independent expert appointed to identify measures for improving the effective functioning of the human rights treaty system, submitted in 1988, 1993 and 1997,[17] have been the basis for extensive

discussions, including by the individual treaty bodies and the meeting of the chairpersons.[18]

15. This climate of review and reform affords a valuable opportunity for the United Nations human rights treaty bodies to ensure that any reform measure, whether it is of a procedural or a substantive nature, proceeds from an approach that is sensitive to the gender implications of human rights. The understanding of international human rights law is shaped by the treaty bodies both through norm-interpretation and assessment of compliance of States parties with convention obligations. The challenge is thus to develop approaches to norm-interpretation and monitoring consistent with the objectives of each of the human rights treaties and which increase attention to the gender dimensions of these objectives.[19]

C. Clarification of concepts

1. Gender and international human rights law[20]

16. The term "gender" refers to the socially constructed roles of women and men that are ascribed to them on the basis of their sex, in public and in private life. The term "sex" refers to the biological and physical characteristics of women and men. Gender roles are contingent on a particular socio-economic, political and cultural context and are affected by other factors, including age, race, class and ethnicity. Gender roles are learned and vary widely within and between cultures. As social constructs, they can change. Gender roles shape women's access to rights, resources and opportunities.[21]

17. Both the Vienna and the Beijing conferences and other recent United Nations conferences have contributed to the understanding that women's equality and non-discrimination between women and men, as well as women's equal enjoyment of human rights and fundamental freedoms, do not occur automatically as a result of the overall protection and promotion of human rights. They have thus strengthened an approach whereby these goals are to be addressed explicitly and systematically at all stages of the implementation of human rights instruments, including in the conceptualization of the protected rights and freedoms.

18. Mainstream human rights approaches have long been based on the presumption that human rights norms are gender neutral or unaffected by gender. However, structural imbalances of power between women and men, the systemic nature of discrimination against women and the general absence of women in law creation and implementation processes continue to reflect disproportionately the experiences of men and exclude the experiences of women. These imbalances also influence the generally accepted understanding of international human rights law whose structure and substance may present or preserve obstacles to women's equality. Many of the substantive norms of international law are defined in relation to men's experience and stated in terms of discrete violations of rights in the public realm. In addition, inattention to rights of particular interest to women in international human rights law and practice has resulted in neglect and pervasive denial of the rights of women, in particular in the private sphere. These factors have contributed to a lack of enjoyment of human rights by women that, at its roots, has gender-specific explanations.

19. A focus on gender recognizes that women's unequal status is based on and is perpetuated by structures of systemic inequality and discrimination against women. The standard of measurement in the realization of women's equality is not the current male standard of equality, which would simply be a reaffirmation of the status quo. Rather, a new standard of equality should be envisaged based on a reconsideration of current assumptions and a reconceptualization of the meaning of equality from a gender perspective. This standard would reflect the visions, interests and needs of women, as well as those of men.

2. A dual strategy: a women-specific and a gender approach in international human rights law

20. Calls for attention to women's human rights by mainstream human rights mechanisms have led to the question of how to divide — or share — responsibility for women's human rights between these mechanisms, on the one hand, and women-specific mechanisms (i.e. the Committee on the Elimination of Discrimination against Women) on the other. The independent expert addressed the question of the capacity of the treaty system to address specific themes, including the rights of women. He considered that an approach which incorporates gender-specific information and analysis into the implementation of all human rights instruments would unquestionably be correct. Greater coordination efforts among the treaty bodies on specific themes, and the development of clearer proposals as to what ought to be done by which body have been suggested.[22]

21. Integrating a gender perspective into the work of the mainstream human rights mechanisms raises conceptual, as well as institutional issues. Conceptually, a gender perspective of human rights requires more than recognition of women's experience of violations which are identical to

those suffered by men; more than attention to discrimination against women in the enjoyment of rights protected in mainstream human rights instruments; and more than attention to specific issues of relevance to women, such as violence against women or women's reproductive function and connected rights.

22. Integrating a gender perspective, or gender mainstreaming, is a conceptual approach to rights issues requiring that women's and men's socially constructed realities be addressed explicitly in the context of each of the human rights conventions with a view to preventing, or at least reducing, women's disadvantages.

23. In terms of institutions, the focus for integrating gender concerns is the "mainstream", i.e. the processes and institutions that currently shape the human rights discourse, rather than women-specific institutions, such as the Committee on the Elimination of Discrimination against Women.

24. Mainstreaming does not replace the need for targeted, or women-specific institutions and mechanisms, but complements them.[23] A women-specific approach starts from an issue of women's inequality. A specific policy, strategy or measure is then developed, frequently by a women-specific machinery, to address the issue. The mainstreaming approach broadens a general policy or strategy in any sector to take into account considerations of gender with a view to achieving gender equality.[24] In terms of human rights, it requires an approach to rights and freedoms that accounts for gender-based differences.

25. A dual strategy — attention to women-specific issues by women-specific machinery, and a gender approach by mainstream mechanisms — reinforces an understanding that gender equality must be addressed as a strategic objective by society as a whole, rather than being a "women's concern", an approach which focuses on women as a vulnerable group and on women's issues as marginal issues on the global and national agenda.

III. Steps already taken by human rights treaty bodies

26. The five human rights treaty bodies reviewed in this study have proceeded at a different pace in increasing attention to the status and human rights of women and to gender factors. While each has developed its own working methods in accordance with the objectives of its respective treaty, all use a similar approach to the consideration of States parties' reports. This part of the report analyses, in five sections, progress in regard to the amount of attention paid to gender issues through an assessment of:

(a) Constructive dialogue and concluding comments/observations adopted with regard to States parties' reports;

(b) General comments/recommendations adopted on particular articles or issues.

27. Each section also reviews whether the recommendations of the chairpersons with regard to gender have been followed up and assesses interaction between the mainstream treaty bodies and the Committee on the Elimination of Discrimination against Women. Areas are identified where each treaty body might consider taking further steps. The analysis is based on the treaty bodies' work since 1993, that is, after the adoption of the Vienna Declaration and Programme of Action, until early 1998.[25] The report does not cover the work of treaty bodies under communications procedures.

A. Committee on the Elimination of Racial Discrimination

28. The Convention on the Elimination of All Forms of Racial Discrimination makes no reference on its face to its applicability without distinction on the basis of sex. However, as the Convention is grounded in the Universal Declaration of Human Rights, its applicability to women and men is without doubt, and the Committee would thus be justified in addressing the gender dimensions of the articles of the Convention.

29. The Platform for Action adopted at the Fourth World Conference on Women recognized the particular vulnerability of women belonging to groups specified in the Convention on the Elimination of All Forms of Racial Discrimination. Women frequently experience double discrimination because of their gender roles and intensified by other aspects such as race, ethnicity or national origin. The Platform highlights women's vulnerability to multiple discrimination in areas including education and training, health, violence, armed conflict, participation in decision-making, the economy, and human rights.

1. Follow-up to the chairpersons' recommendations

30. The Committee on the Elimination of Racial Discrimination has taken no decision to amend its reporting guidelines to accommodate gender considerations, nor has it considered other specific steps to increase attention to the gender dimensions of racial discrimination. In its discussion

of the recommendation of the chairpersons' meeting that the committees consider amending their reporting guidelines to reflect a gender perspective,[27] some members of the Committee on the Elimination of Racial Discrimination suggested that gender issues did not fall within the Committee's mandate. Some members, while expressing sympathy towards gender issues, were of the view that gender perspectives could not be incorporated into their work until problems of overlap with the Committee on the Elimination of Discrimination against Women were resolved. Others showed sensitivity to the intersectionality of discrimination on the basis of race and sex. Views were expressed that the appropriate approach was to pass on any information regarding sex discrimination to the relevant committee via a liaison officer. The discussion revealed a certain degree of uncertainty over concepts such as "gender" and "gender-based", as well as "gender-disaggregated data".

31. No steps were taken by the Committee following its discussion on gender in 1996. The Committee's current guidelines do not request States parties to disaggregate data and information by sex.

2. Constructive dialogue and concluding observations

32. A review of the Committee's work since mid-1993 shows that among the main areas of concern raised by Committee members are legislative and constitutional provisions, including the definition of "racial" discrimination and "minority" groups; discrimination against foreigners, especially foreign workers; conduct of law enforcement officials and security forces in a series of specific situations; militarization of society; situation of refugees and displaced persons; operation of the legal system; discrimination in education, employment and with regard to access to health care; treatment of children; statistics on demographic composition, collection of social indicators and data disaggregated on the basis of ethnicity; specific forms of discrimination such as caste systems, xenophobia; role of mass media; poverty; structural discrimination and affirmative action; impact of economic policies such as structural adjustment.

33. The Committee addressed concerns of women or gender issues in a limited number (approximately 10 per cent) of concluding observations.[28] These cover the following areas:

(a) Treatment of foreign women working as domestic servants;

(b) Maternal health care;

(c) Marriage and family laws;

(d) Nationality laws;

(e) Impunity for violations of women's human rights;

(f) Education of girls;

(g) Exploitation of prostitution;

(h) Sexual violence, including rape, and deaths of women civilians during armed conflict;

(i) Refugee women and asylum seekers.

34. On a number of occasions, the Committee has demonstrated in its concluding observations an appreciation of the way in which gender and race/ethnicity intersect. For example, in considering the report of the United Kingdom of Great Britain and Northern Ireland on its (then) dependent territory, Hong Kong,[29] the Committee noted with concern the operation of the "two week" rule, pursuant to which foreign workers cannot remain in Hong Kong more than two weeks after the expiration of their employment contract, thus leaving workers vulnerable to abusive employers. The Committee identified female Filipino foreign domestic workers as the most vulnerable group and noted that the rule "appears to have discriminatory aspects under the terms of the Convention". The Committee also examined the situation and treatment of foreign workers, in particular of women domestic servants, in Kuwait (August 1993) and the United Arab Emirates (August 1995). In its concluding observations with regard to Kuwait, the Committee expressed concern about the treatment of "foreign domestic servants", and recommended that the State party take steps to guarantee the enjoyment by individuals belonging to vulnerable groups of foreigners, including foreign domestic servants, of the rights enshrined in the Convention.[30] In its review of the report of the United Arab Emirates in 1995, the Committee identified the allegations of ill-treatment of foreign workers, including women domestic servants of foreign origin, as a principal subject of concern, and recommended that the State party "show the utmost diligence in preventing acts of ill-treatment being committed against foreign workers, especially foreign women domestic servants, and take all appropriate measures to ensure that they are not subjected to any racial discrimination".[31]

35. These observations indicate that in the States parties concerned, the Committee clearly identified the two overlapping elements contributing to the discrimination identified. The fact that they were women meant that the workers were more likely to be employed in domestic

service. The fact that they were foreign domestic workers made them particularly vulnerable to abuse.

36. In considering the report of the former Yugoslav Republic of Macedonia,[12] the Committee expressed concern over the low levels of participation of Albanian girls in rural areas in secondary and higher education. In so doing, the Committee identified several factors leading to the discrimination, namely nationality and location in rural areas, in conjunction with gender.

37. In several concluding observations, the Committee addressed the persistence of dual legal systems in the area of personal status law such as marriage, inheritance and succession.[13] While the Committee noted that this "can lead to unequal treatment between Blacks and Whites", or cause "serious discrepancies in the system applicable to white, coloured and black people" under existing law, the Committee did not go further and inquire into the situation of women compared to that of men in specified groups.

38. There are instances where Committee members have addressed the situation of women per se in the reporting State rather than the situation of women of a specified group.[14]

3. General recommendations

39. So far, the Committee has adopted 23 general recommendations.[15] They address issues such as refugee and displaced persons, the rights of indigenous peoples, training of law enforcement officials in the protection of human rights, the situation on non-nationals, and paragraph 1 of article 1 (the Convention's definition of racial discrimination), all of which are of considerable relevance for women and have clear gender dimensions. No recommendation expressly refers to gender as a factor in the issue, or right, addressed. General recommendation XVIII on the establishment of an international tribunal to prosecute crimes against humanity, considered that such a tribunal with general jurisdiction should be established to prosecute various crimes, including rape. In this context, the general recommendation does not elaborate further the issue of sexual violence against women, including rape.

4. Interaction with the Committee on the Elimination of Discrimination against Women

40. No particular mechanism has been put in place by the Committee to follow the work of the CEDAW Committee and to maintain liaison with it on issues of common interest. Instead, the Committee uses the mechanism of the meeting of chairpersons to consult with other committees in finding ways to increase the Committee's efficiency and effectiveness.[16]

5. Early warning procedure

41. While no comprehensive analysis of the Committee's review of country situations under the early warning procedure has been conducted for the purposes of this study, a sample analysis of this mechanism reveals that the Committee did not pursue gender-based violations of rights suffered by women of ethnic groups in countries such as Rwanda, Bosnia and Herzegovina and the Federal Republic of Yugoslavia.

6. Next steps for the Committee on the Elimination of Racial Discrimination

42. The Committee has recognized in some cases that when considering racial/ethnic discrimination, a range of factors including gender, should be considered. The main task facing the Committee now is to apply this methodology in a more consistent and systematic manner with regard to all provisions of the Convention. The following is an indicative list of issues which the Committee may wish to consider:

(a) The extent to which remedies, such as compensation, are available for the types of discrimination that women of the specified group suffer and the extent to which these women are de facto able to access complaint mechanisms and remedies;

(b) The steps taken to ensure that women of the specified groups are informed of their rights;

(c) The extent to which the legislative prohibitions of racial discrimination as defined by the Convention are sensitive to gender-based acts of racial discrimination;

(d) The extent to which investigatory mechanisms accord investigation of racial discrimination against women equal priority as acts of racial discrimination against men;

(e) Request that all data provided on racial/ethnic groups be disaggregated by sex and evaluate disadvantages and obstacles that women of specified groups encounter when compared to men of the same group;

(f) The understanding of access to public places (for example, in the India report, access to "wells") and denial of, or obstacles to, access by women of specified groups;

(g) Portrayal of women from specified groups: the extent to which women from specified groups are constructed for purposes of anti-racial/ethnic propaganda and to incite ethnic hatred (for example, the way Tutsi

women were portrayed as evil temptresses and spies during the genocide in Rwanda);

(h) Ethnic/gender-based violence against women, such as rape and sexual violence perpetrated against women of an ethnic group, forced pregnancy, "ethnic cleansing", and the like;

(i) Traffic in women of specified groups;

(j) The situation of migrant women workers (as in the examples of Kuwait and the United Arab Emirates).

B. Committee against Torture

43. As with the Committee on the Elimination of Racial Discrimination, the Convention against Torture and Other Cruel or Inhuman Treatment or Punishment makes no reference on its face to its applicability without distinction on the basis of sex. Again, as the Convention is grounded in the Universal Declaration of Human Rights, its applicability to women and men is without doubt, and the Committee would thus be justified in addressing the gender specific dimensions of the articles of the Convention.

44. While it is obvious that not all violence against women constitutes torture within the meaning of the Convention, there are a number of issues the Committee could raise. In this regard, guidance can be obtained from the Platform for Action adopted at Beijing. Two of the areas discussed in the Platform, violence against women and women and armed conflict, contain provisions and recommendations that are pertinent to the Convention and the Committee's work.

1. Follow-up to chairpersons' recommendations

45. Developments concerning the integration of a gender perspective have been reported to the Committee, mainly by its Chairperson in follow-up to the meeting of the chairpersons of human rights treaty bodies. However, the Committee has not yet taken any specific action to implement various recommendations of the chairpersons. In its recent sessions, the Committee has regularly used gender-inclusive language (references are to "persons", "victims", "citizens").

2. Constructive dialogue and concluding comments

46. A review of the Committee's work since late 1993, indicates that the major areas addressed by the Committee in its concluding comments include: remedies for victims of torture including compensation and rehabilitation; legislative provisions, including definitions of the offences; specific methods of torture or inhuman or degrading treatment or punishment; training for public officials and other relevant personnel; mechanisms to investigate, prosecute and punish torture; conditions in police detention; treatment of asylum-seekers; independence of the judiciary; fair trial and due process issues; amnesty/impunity laws; discriminatory treatment of specified groups; complaints mechanisms; cooperation with non-governmental organizations; monitoring mechanisms.

47. The Committee's consideration of the situation of women, or gender issues, during its dialogue with States parties falls into the following broad categories:

(a) Rape and sexual offences;

(b) Segregation of male and female prisoners;

(c) Situation of pregnant women.

48. Most cases of torture or ill-treatment against women raised by the Committee involve rape, sexual assault or some form of sexual humiliation.[37] Some Committee members have expressed the view that rape constitutes torture, as in the example of Mexico,[38] where a member stated that rapes of arrested persons by policemen constitute, by definition, acts of torture. One State party has been questioned as to whether rape was viewed as an act of torture.[39]

49. During the Committee's thirteenth session, the segregation of prisoners was raised with several reporting States.[40] This issue did not receive attention in subsequent sessions. The needs of women specific to their reproductive function has also been raised,[41] although the emphasis appeared to have been on the well-being of the foetus.

50. The review indicates that, over a five-year period, during which the situation in approximately 60 different States parties was examined, none of the Committee's concluding comments made reference to the situation of women. This is particularly noteworthy as Committee members have either asked specific questions or made comments focusing on women or gender issues in approximately one fourth of the reports considered.

3. General recommendations

51. The Committee does not adopt general recommendations.

4. Interaction with the Committee on the Elimination of Discrimination against Women

52. At its twelfth session, the Committee designated one of its members (Mrs. Iliopoulos-Strangas) to follow the activities of the Committee on the Elimination of

Discrimination against Women.[42] At its sixteenth session, held during April and May 1996, the Committee had before it the report of the Fourth World Conference on Women as well as an informal note by the secretariat on the implications for the Committee's methods of work of the Beijing Declaration and Platform for Action and of the recommendations concerning gender issues adopted by the persons chairing human rights treaty bodies at their sixth meeting. The Committee took note of these documents and agreed that Mrs. Iliopoulos-Strangas would continue to follow the activities of the Committee on the Elimination of Discrimination against Women.[43] According to the Committee's reports, no further information was provided by the designated member on the activities of the Committee on the Elimination of Discrimination against Women. During its twentieth session, the Committee decided that one of its members would act as thematic rapporteur on issues relating to gender.[44]

5. The Committee's inquiry procedure

53. The Committee's two published reports under its article 20 (inquiry) procedure were reviewed.[45] In the case of Turkey, the Committee included a recommendation that women prisoners be transferred from a particular prison to another. The body of the report, however, provides no further indication that gender-based torture was an issue raised by the Committee. No reference to gender issues was made in the report on Egypt.

6. Next steps for the Committee against Torture

54. Committee members have shown understanding of the fact that women are subjected to gender-specific forms of torture and ill-treatment and have raised pertinent gender issues during the constructive dialogue with States parties. So far, such concerns have not been reflected in the Committee's concluding comments. However, since the Committee's summary records are much less accessible and less widely distributed than its concluding comments, the Committee's gender-specific concerns receive substantially less visibility than other matters addressed by the Committee in its concluding comments. There is now also ample evidence that women are frequently subjected to sexual violence, including rape, in situations of conflict, especially armed conflict. Opportunities could be sought to raise such violations not only during the dialogue, but also in the concluding comments.

55. The Committee has the opportunity to expand the lines of inquiry on gender-specific issues that fall within the scope of the Convention. The following is an indicative list of issues which the Committee could pursue:

(a) The extent to which legislative prohibitions of torture cover gender-based acts such as sexual violence, genital mutilation, scientific experimentation, and so forth;

(b) The extent to which sensitivity to gender-specific acts of torture has been incorporated into information, education and training of relevant officials regarding the prohibition of torture and its impact on women;

(c) The extent to which investigatory mechanisms recognize the gravity of acts of torture committed against women, especially those of a sexual nature, and accord investigation of these acts equal priority to those committed against men;

(d) Non-refoulement for women, particularly the recognition of gender-based persecution, as grounds for asylum;

(e) The extent to which women subjected to torture and ill-treatment have effective access to complaint mechanisms and remedies, including gender-sensitive rehabilitation and compensation;

(f) The steps taken to ensure that compensation is provided for the dependents of (male) victims of torture, who are frequently women.

56. An area which has not yet been explored by the Committee, but which would be especially pertinent from a gender perspective, is the question of the responsibility of the State to prevent, and to take action in response to, acts carried out by persons in their private capacity, and thus address directly a climate of impunity for acts falling within the meaning of the Convention if committed by public officials in their official capacity. So far, the Committee's attention, both during the dialogue and in its concluding comments, is strictly directed at the actions of public officials. Consequently, the violent treatment to which women are frequently subjected to in their homes and their communities, such as harmful traditional practices, goes without comment.

C. Human Rights Committee

57. The International Covenant on Civil and Political Rights establishes in its article 2 that the rights recognized therein apply to individuals without distinction on the basis of, *inter alia*, sex. This provision is reinforced by article 3, which establishes the States parties' obligation to ensure the equal right of women and men to the enjoyment of the rights

contained in the Covenant. Article 26 guarantees all persons' equality before the law and equal protection of the law, without distinction on the basis of, *inter alia*, sex. Articles 4, 6, 23 and 24 also contain specific references to women, or sex-based non-discrimination.

1. Follow-up to the chairpersons' recommendations

58. The Committee amended its reporting guidelines in 1995. As a result, States parties are now requested to include information on the factors affecting the equal enjoyment of rights by women under each of the substantive articles of the Covenant.[6] The guidelines do not contain specific guidance on the manner in which each article applies to women, nor a requirement for data disaggregated by sex. In April 1997, the Committee held an exchange of views with the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women relating to furthering cooperation between the Division for the Advancement of Women and the Committee.

2. Constructive dialogue and concluding comments

59. In taking note of the various recommendations of the Vienna Declaration and Programme of Action in 1995, the Committee stressed that the lists of issues to be dealt with during the Committee's consideration of States parties' reports should systematically include practical matters concerning equality of status and the human rights of women.[7]

60. Since late 1993, including its sixty-first session in October 1997, the Human Rights Committee has reviewed the reports of some 60 States parties. The analysis of the concluding comments shows that the Committee consistently refers to issues affecting women's enjoyment of their human rights, often in considerable detail, and with regard to various rights protected under the Covenant. With perhaps the exception of those relating to the United Kingdom (then) dependent territory of Hong Kong on the transfer of sovereignty to China and Azerbaijan, all concluding comments address the situation of women in the reporting State.

61. The Committee's consideration of women's human rights and gender issues falls within the following categories:

(a) Legal status of women, including constitutional guarantees of equality, legislation on the equal status of women, reform of family codes, criminal law and criminalization of women forced into prostitution;

(b) Equality before the law, including interpretation of laws, for example, doctrine of provocation, complaint mechanisms;

(c) National machinery to promote women's equality;

(d) Violence against women, including domestic/family violence, investigation of rape and sexual assault, punishment for perpetrators of rape or abduction of women, rape in marriage, female genital mutilation, dowry and dowry-related violence, suttee (self-immolation of widows), remedies for women victims of violence, rehabilitation of women victims of sexual violence, provision of crisis centres/shelters for women;

(e) Enforcement of strict dress requirements for women in public places and inhuman punishment for breach of these requirements;

(f) Discrimination against girls, including prenatal sex selection and infanticide of females, preference for male children, and marriage age of girls;

(g) Gender stereotyping and traditions and customs impeding equality;

(h) Discrimination against women in employment, including equal remuneration for equal work, employment opportunities, sexual harassment in the workplace, regulation of wages for domestic work, women workers in free trade zones/export-processing zones, discrimination against workers with family responsibilities;

(i) Discrimination in education, including illiteracy, and in access to higher education;

(j) Health of women, including life expectancy, maternal mortality, illegal abortion, criminalization of abortion without exception, availability of contraception;

(k) Participation of women in public life, including voting;

(l) Family rights and responsibilities, including polygamy, forced marriage, rights of young single mothers, application of customary laws in areas such as personal status, marriage, divorce and inheritance, differences in punishment for adultery for women and men;

(m) Enforcement of personal laws based on religion;

(n) Women in detention, including detention of women and men in the same cells, imprisonment of women for offences resulting from unwanted pregnancies, treatment of female detainees, rape of women in custody;

(o) Rights of women in the areas of family including divorce, inheritance, property, departure from the country,

acquisition of nationality, commercial activities, enjoyment of civil and political rights;

(p) Trafficking in women, including assistance to trafficked women;

(q) Affirmative action;

(r) Poverty, including households headed by single women;

(s) Public education on equality of women and men;

(t) Data collection regarding the situation of women and men;

(u) Training of public officials.

62. The Committee's concluding comments address structural and systemic gender issues that affect women's enjoyment of their human rights. Examples include the Committee's identification, under "factors and difficulties impeding the application of the Covenant", of traditional concepts of the different roles of the sexes,[48] or the survival of certain traditions, customs and outdated laws, as an obstacle to equality of women and men.[49] Similar issues have been identified as principal subjects of concern in many reporting States.[50]

63. While many issues are considered on a case-by-case basis, regular attention is given to issues of inequality and discrimination in the areas of employment including equal remuneration;[51] access to public service and participation in public affairs;[52] family and marriage;[53] and violence against women including female genital mutilation and trafficking.[54]

64. Although the Committee's assessments in its concluding comments are not usually linked to particular provisions of the International Covenant, on occasion it has made important pronouncements in this regard. For example, in considering the report of Peru, the Committee expressed its concern that abortion gave rise to a criminal penalty even if a woman was pregnant as a result of rape and that clandestine abortions were the main cause of maternal mortality. The Committee noted that "those provisions not only mean that women are subject to inhumane treatment but are possibly incompatible with articles 3, 6 and 7 of the Covenant". It consequently recommended the revisions of the Civil and Penal Code, as Peru "must ensure that laws relating to rape, sexual abuse and violence against women provide women with effective protection and must take the necessary measures to ensure that women do not risk their life because of the existence of restrictive legal provisions on abortion".[55] In considering Colombia's report, the Committee noted that violence against women remained a major threat to their right to life and needed to be more effectively addressed. It also was concerned at the high mortality rate of Colombian women resulting from clandestine abortions, and recommended that priority be given to protecting women's right to life by taking effective measures against violence against women and by ensuring access to safe contraception.[56]

65. In other instances, the Committee has identified discrimination against women in conjunction with laws which may restrict the right to leave the country for spouses in the absence of the consent of the husband.[57] While the Committee considered this (and other) provisions to be incompatible with articles 3 (and 23) of the Covenant, it did not address the relationship of article 3 to article 12 (freedom of movement).

3. General comments

66. So far, the Committee has adopted 26 general comments. General comment 18 addresses non-discrimination, and reference to gender issues are included in general comment 4 (on article 3), and 19 (on marriage and the family).

67. The Committee has acknowledged that more remains to be done in order to reflect gender considerations in its concluding comments. One of the steps taken in this regard is the Committee's decision to update its general comment on article 3, concerning women's equal right to the enjoyment of all rights covered by the Covenant. At the same time, the Committee's growing sensitivity to the impact of gender on the enjoyment by women of their human rights remains to be reflected more systematically in its general comments. Given the Committee's own experience and the simultaneous elaboration by the Committee on the Elimination of Discrimination against Women of a general comment on articles 7 and 8 (women in public life), the elaboration of general comment 25 (on article 25, public life) provided such an opportunity. The Committee's ongoing work on a general comment on article 12 could reflect gender issues raised by the Committee in the past (Lebanon). Revision of past general comments could be considered in order to reflect the Committee's pronouncements on, for example, women's right to life (article 6) and freedom from torture (article 7).

4. Interaction with the Committee on the Elimination of Discrimination against Women

68. The Committee has designated one of its members to follow, on a regular basis, the work of the Committee on the Elimination of Discrimination against Women (currently

Ms. Elizabeth Evatt), and to report thereon to the Human Rights Committee. Information about the work of the Committee on the Elimination of Discrimination against Women is also provided to the Human Rights Committee by its secretariat.[58]

5. Next steps for the Human Rights Committee

69. The Committee regularly addresses many gender-specific concerns in conjunction with the rights protected by the International Covenant. The Committee now has the opportunity to explore factors that impact particularly on women's enjoyment of human rights, including through action by private actors and where the State has a due diligence obligation to ensure equal enjoyment of rights by women.

70. Some of the further issues the Committee could consider include the following:

(a) The extent to which obstacles to the right to life include threats that are particular to women, such as harmful traditional and customary practices or threats stemming from women's reproductive function, such as reproductive health care, along the lines of the concluding comments of Peru and Colombia;

(b) The extent to which sexual abuse, rape and violence against women committed as acts of war or in armed conflict constitute torture and/or ill-treatment;

(c) The extent to which de facto restrictions are placed by family members on women's exercise of freedom of movement-rights, either within the country, or in terms of leaving the country; the impact of such restrictions on other rights, such as rights provided for under article 25;

(d) Restrictions on women's rights in public life, including requirements that women receive consent for political participation from husbands or male relatives; harassment of politically active women;

(e) Persecution of women because of family relationships;

(f) Recognition of persecution on the basis of sexual abuse, harassment, genital mutilation and other gender-based oppression;

(g) Respect for women's reproductive rights as a privacy issue;

(h) Relationship between freedom of religion and, in particular, the right to manifest religious beliefs, and women's right to equality;

(i) Freedom of expression issues, including censorship imposed on women writers or of materials and information on equality rights;

(j) Limits on the production and distribution of family planning information and limitation, including by private actors, of women's access to such information;

(k) Relationship between exercise of rights provided for under article 27, and women's right to equality.

71. In preparing the new general comment on article 3, the Committee has the opportunity to link explicitly the obligation of article 3 with all the other substantive provisions of the Covenant and thus to develop an understanding of every provision of the Covenant that identifies issues of special relevance to women and which are not yet receiving sufficient attention.

D. Committee on Economic, Social and Cultural Rights

72. The International Covenant on Economic, Social and Cultural Rights establishes, in its article 2, that the rights recognized therein apply to individuals without discrimination on the basis of, *inter alia*, sex. This provision is reinforced by article 3, which establishes States parties' obligation to ensure the equal right of women and men to the enjoyment of the rights contained in the Covenant. Article 7 includes a guarantee of equal conditions of work for women, including equal pay for equal work. Article 10 establishes that both parties to a marriage must freely consent and establishes protection for working mothers, including paid maternity leave. Article 12 addresses the reduction of the stillbirth rate and infant mortality.

1. Follow-up to the chairpersons' recommendations

73. The Committee on Economic, Social and Cultural Rights amended its reporting guidelines in 1990. They contain repeated reference to the specific situation of women in relation to the rights protected by the Covenant and call for the provision of disaggregated data and information of the particular situation of women, under relevant articles of the International Covenant, including under article 6 (employment and occupation), article 7 (remuneration and working conditions), article 9 (social security including maternity), article 10 (marriage), article 11 (adequate food for particularly vulnerable groups of women), article 12 (infant mortality rate, life expectancy, maternal health and maternal mortality) and article 13 (education). States parties are encouraged to refer to and incorporate relevant sections

of reports they have submitted under any of the other human rights instruments, including the Committee on the Elimination of Discrimination against Women. In 1996, the Committee initiated a process for the possible revision of its reporting guidelines in the light of the results of the International Conference on Population and Development, the World Summit for Social Development, and the Fourth World Conference on Women.[59]

74. The Committee submitted a statement to the Fourth World Conference on Women on its own experience in monitoring women's enjoyment of the rights protected by the Covenant and recommendations made to States parties.[60] It was also represented at the Conference by two of its members.

75. The Committee has expressed its willingness to identify the gender-specific issues arising under each of the substantive articles of the Covenant. It has noted that this may lead to the formulation of a general comment and eventually to the revision of the Committee's reporting guidelines.[61] (See also para. 83 below.)

2. Constructive dialogue and concluding observations

76. The Committee's attention to the enjoyment and protection of the rights of women under the International Covenant is reflected in the formulation of the lists of issues and in the oral questions raised during consideration of the reports of States parties. A review of the Committee's work since late 1993 shows that the Committee now regularly addresses women's rights and gender issues, often in some detail, and with regard to various rights protected under the Covenant.

77. The Committee's consideration of the situation of women and gender issues falls within the following categories:

(a) Equality legislation and its implementation, and lack thereof;

(b) Persistence of *de jure* and de facto discrimination, lack of equality;

(c) Women's subordinate role in society and the persistence of customs and traditions that impact on women's equal enjoyment of the rights protected by the Covenant;

(d) Mechanisms to promote the equal status and equal rights of women and men, such as councils, ombudsmens' organizations, commissions, and to investigate allegations of discrimination;

(e) Women's inequality and discrimination against women in employment and remuneration, including equal pay legislation and its (non-)implementation, pay and wage gaps, equal pay for work of equal value, access to employment, working conditions, representation in and access to higher professional positions, unemployment, exploitation of female workers, sexual harassment, paid/unpaid maternity leave, freedom of movement;

(f) Education, including lack of education, access to education, disparities between women and men in educational achievements, women's participation in education and professional life, illiteracy;

(g) Social benefits, including social security, discrepancies in pension benefits;

(h) De facto discrimination within family and marriage, including arranged marriages, forced marriages, polygamy, age of marriage;

(i) Violence against women, including harmful traditional practices, female genital mutilation, domestic violence, marital rape;

(j) The situation of particularly vulnerable groups of women, such as divorced women with children, migrant women workers, foreign women working as domestic servants;

(k) Women's overall socio-economic situation;

(l) Health, including maternal mortality rate, mother-child programmes, teenage pregnancy rates, abortion;

(m) Inheritance rights, credit and land ownership rights;

(n) Rights of rural women including to benefit from agrarian reforms;

(o) Prostitution.

78. The Committee's concluding comments address structural and systemic gender issues that affect women's enjoyment of their human rights. Among "factors and difficulties impeding the implementation of the Covenant", the Committee has identified women's socio-economic situation rooted in traditional practices, and discriminatory practices including those that result from long-standing cultural prejudice.[62] It has also identified women's subordinate role in society and many forms of discrimination against women in legislation and in everyday life as principal subjects of concern.[63]

79. While many issues are considered on a case-by-case basis, regular attention is given to issues of inequality and

discrimination with regard to the right to equal treatment at work, including with regard to equal access to and opportunities in work, equal remuneration and unemployment rates;[64] the right to education, including illiteracy rates, and educational achievement;[65] and violence against women, especially domestic violence, and harmful traditional practices.[66]

3. General comments

80. As at the end of the seventeenth session, in December 1997, the Committee has adopted eight general comments, several of which analyse factors requiring explicit attention from a gender perspective. In its general comment 4 on the right to adequate housing, the Committee states:

> "The right to adequate housing applies to everyone. While the reference to 'himself and his family' [in article 11(1) of the Covenant] reflects assumptions as to gender roles and economic activity patterns commonly accepted in 1966 when the Covenant was adopted, the phrase cannot be read today as implying any limitations upon the applicability of the right to individuals or to female-headed households or other such groups. Thus, the concept of 'family' must be understood in a wide sense. Further, individuals, as well as families, are entitled to adequate housing, regardless of age, economic status, group or other affiliation or status and other such factors. In particular, enjoyment of this right must, in accordance with article 2 (2) of the Covenant, not be subject to any form of discrimination."[67]

81. While general comment 4 discusses aspects such as legal security of tenure and availability of services, such as potable water, energy for cooking, sanitation and washing facilities and food storage, all of which may be of particular significance to women, the general comment does not elaborate on any particular factors or concerns that arise in conjunction with women's enjoyment of various aspects of the right to housing.

82. General comment 5 elaborates, *inter alia*, the relevance of article 3 of the International Covenant for women with disabilities stating that:

> "... persons with disabilities are sometimes treated as genderless human beings, with the result that the double discrimination suffered by women with disabilities is often neglected ...".[68]

83. The Committee is also in the process of elaborating a general comment on ensuring gender equity [*sic*] in the implementation of economic, social and cultural rights, and has designated two of its members to take the lead in preparing a draft.[69]

4. Interaction with the Committee on the Elimination of Discrimination against Women

84. At its sixth session, the Committee designated one of its members to follow the work of the Committee on the Elimination of Discrimination against Women on a regular basis.

85. The Committee proceeds under specific conditions with the consideration of the state of implementation of the Covenant in a State party in the absence of a report. When applicable, the Committee has made extensive use of reports which such States parties have submitted to the Committee on the Elimination of Discrimination against Women.[70]

5. Next steps for the Committee on Economic, Social and Cultural Rights

86. The Committee regularly addresses many gender-specific concerns in conjunction with the rights protected by the Covenant. In its statement to the Fourth World Conference on Women, the Committee noted that the Covenant "constitutes an indispensable element in any comprehensive framework for the promotion and protection of the rights of women".[71]

87. In addition to issues already addressed, the Committee could consider examining the following:

(a) The extent to which the Committee's and States parties' current understanding and interpretation of the rights protected by the International Covenant covers, or might fail to cover, women's experiences. For example, the extent to which the understanding of the right to work and the rights at work linked to it, cover many forms of remunerated and unremunerated work predominantly performed by women in the formal and informal sector (work in family enterprises, agricultural and subsistence work, sex work, etc.);

(b) Obstacles to women's full enjoyment of the right to work, such as sexual harassment, child care needs, family and caring responsibilities;

(c) The extent to which social security and social assistance rights are responsive to women's forms of work, and explicitly take into consideration women's greater vulnerability to loss of employment and interrupted employment, health issues of women and other family members, loss of family members who provide monetary support to the family;

(d) The extent to which women's marital status affects their de facto access to work and opportunities at work, including women's child-bearing function;

(e) The extent to which various forms of violence against women, including domestic violence and sexual harassment, impact on women's ability to enjoy the rights provided for in the International Covenant, such as their right freely to choose or accept gainful employment, or the right to adequate housing.

88. In preparing a new general comment on article 3, the Committee has the opportunity to explicitly link the obligation of article 3 with all the other substantive provisions of the Covenant, and thus to develop an understanding of every provision of the Covenant that identifies issues of special relevance to women and which may not have been given sufficient attention.

E. Committee on the Rights of the Child

89. The Convention on the Rights of the Child, adopted in 1989, is the only one of the major international human rights instruments currently in force that consistently uses both masculine and feminine pronouns throughout and makes it explicit that the rights apply equally to female and male children. The Convention also confers certain benefits upon women where they are integral to the enjoyment of rights by children, such as in article 24, which obliges States parties to take all appropriate measures to provide pre- and post-natal care for expectant mothers, education relating, *inter alia*, to the advantages of breastfeeding and family planning education and services. Furthermore, article 18 of the Convention recognizes the upbringing of children as a common responsibility of both parents.

1. Follow-up to the chairpersons' recommendations

90. The comprehensive reporting guidelines of the Committee on the Rights of the Child include sex as one of the grounds wherever a request is made for disaggregated data. They also contain an umbrella clause requesting States parties to provide information disaggregated by sex on the situation of particular groups of children and in relation to a number of articles. Its guidelines for periodic reports also request information on measures taken to eliminate discrimination against the girl child, in follow-up to the Beijing Platform for Action. The guidelines do not, however, contain a general request for data disaggregated by sex for all provisions of the Convention, or systematically ask for such information in conjunction with all articles. They also do not identify situations where girl children may be subject to particular forms of violations of rights.

2. Constructive dialogue and concluding comments

91. The Committee has incorporated gender concerns in its dialogue with States parties since its first session in 1991. The lists of issues and the oral questions raised during consideration of States parties' reports increasingly reflect a gender perspective.

92. The following issues of particular relevance to the girl child have been addressed by the Committee:

(a) Legal and de facto equality of girls and measures taken to ensure equal rights to girls;

(b) Discriminatory and stereotypical attitudes, prejudices and practices towards girls;

(c) Marriage age, especially early marriage age of girls, forced marriage;

(d) Violence against girls, including traditional practices harmful to girls and women, female genital mutilation, sexual abuse, incest, trafficking, sexual exploitation, girl servants, bride price, female prenatal sex selection, rape and impunity for rape when followed by marriage;

(e) Child prostitution, child pornography;

(f) Girls' health, including family planning education, abortion rates, clandestine abortions, high mortality rates for girls, lack of access to health care and reproductive health care;

(g) Teenage pregnancy rates;

(h) Education and literacy rates of girls, school retention and drop-out rates;

(i) Inheritance rights of girls;

(j) Girl child labour;

(k) The situation of girls in single parent, female-headed households;

(l) Maternal health care, including prenatal services, breastfeeding, paid maternity leave.

93. While the Committee addresses a variety of issues on a case-by-case basis, the issues most commonly addressed are girls' early marriage age; early/teenage pregnancy; the low status of girls in society; adverse health practices; sexual abuse and exploitation; educational opportunities for girls; and family planning education and services.

3. General comments

94. The Committee does not adopt general comments or recommendations. Instead, it holds regular "general discussion days", during which thematic issues are considered. The situation of the girl child has been considered in a number of different contexts, including economic exploitation and the family. The Committee also devoted its general discussion day at its eighth session (1995) to the topic of the girl child as part of the preparations for the Fourth World Conference on Women.[72] In 1997, the Committee held general discussions on traditional practices detrimental to the health of women and children, in particular female genital mutilation, and on traditional attitudes and stereotypes and the special situation of, *inter alia*, the girl child, child victims of sexual abuse and exploitation and refugee children.

4. Interaction with the Committee on the Elimination of Discrimination against Women

95. The Committee has designated one of its members to follow on a regular basis the work of the Committee on the Elimination of Discrimination against Women. In November 1996, a first joint meeting took place in Cairo between members of the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women to discuss working methods and the development of concrete social indicators on child rights and women's rights. A workshop to examine ways to coordinate action to promote the two conventions was also held. The United Nations Children's Fund has convened several meetings to address issues of common interest in the framework of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.[73]

5. Next steps for the Committee on the Rights of the Child

96. Some of the further issues the Committee could consider include the following:

(a) Reproductive rights of girls, including access to family planning and contraception, and information thereon;

(b) Juvenile justice issues affecting girls, including issues relating to abortion;

(c) Needs of particular groups of girls, such as refugee and displaced girls;

(d) Health rights of girls, including nutrition, protection from sexually transmitted diseases, human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS);

(e) The situation of working girls, including conditions of work, forced labour/slavery, protection from exploitation and sex work.

IV. Conclusions

97. The review of the work of the five mainstream treaty bodies in the five years since the adoption of the Vienna Declaration and Programme of Action indicates that attention to the situation of women in the framework of guarantees of equal enjoyment of rights and of non-discrimination is being broadly achieved, and thus the mandate of the Vienna Declaration and Programme of Action is being implemented to some extent. This is exemplified in areas such as discrimination against women in education or employment, or women's rights in marriage and the family. There is also growing attention to situations that are specific to women, in particular violence against women in its many manifestations. However, the impact of these specific situations of women on the enjoyment of other rights protected under the same instrument (e.g., freedom of movement, or work-related rights) remain to be further developed.

98. Awareness of the gendered nature of human rights is developing (for example in elaborating gender factors of the right to life, or identification of certain measures that lead to discrimination against a specified group of women), but there is not yet a clear acknowledgement or understanding that gender is an important dimension in defining the substantive nature of rights. This remains particularly so in a context where an explicit non-discrimination guarantee is absent, such as in the conceptualization of torture or of gender aspects in racial discrimination. Even where non-discrimination guarantees of human rights are monitored, the gendered nature of the rights themselves remain largely to be explored (for example with regard to defining the right to "work", "housing", an "adequate standard of living", "freedom of movement", or "freedom of expression"). Human rights treaty bodies can make a major contribution in this regard through their constructive dialogue with States parties to assess compliance with treaty obligations and through the interpretation of human rights norms in general comments/recommendations and jurisprudence on the basis of individual complaints.

99. States parties' obligations to prevent and redress violations of women's rights by private persons, such as

husbands or employers, also need to be further clarified and expanded. Women's different life experiences, both in private and in public life, such as in employment, education or political life, need to be assessed more explicitly to identify obstacles to the enjoyment of rights. In this regard, treaty bodies have an opportunity to bring greater clarity to States parties' obligations to respect, protect and promote and fulfil human rights for all.

100. There is also a need to strengthen the understanding of women's enjoyment of rights in the context and within the scope of particular treaties. While the Convention on the Elimination of Racial Discrimination and the Convention against Torture or Other Cruel or Inhuman Treatment or Punishment may have apparent limitations in this regard as they do not refer specifically to their application without distinction on the basis of sex, they, like the other treaties, are grounded in the Universal Declaration of Human Rights. In this regard, rather than assessing the situation of women per se and focusing on women-specific issues, treaty bodies have the opportunity to assess enjoyment of rights and of factors and difficulties impeding implementation of rights for women and men, respectively, within the scope of a particular treaty. For example, an assessment of the overall situation of women in a reporting State under the Convention on the Elimination of Racial Discrimination arguably goes beyond the scope of the Convention, but assessing factors that might constitute additional obstacles to women of a specified racial group and not encountered by women of another group would be within the Committee's responsibilities. A particular study of the intersection of race and gender could assist in clarifying these factors.

101. In their reporting guidelines, general comments and concluding observations/comments, several treaty bodies require that data and information be disaggregated by sex. Such information can greatly facilitate a prima facie assessment of the position of women and men with regard to particular rights or issues and thus give an initial indication of difference and potential disadvantage. While remedying the lack of such data is primarily a responsibility of States parties, the explicit request for such data and related analysis by the Committees, may provide an incentive for Governments to provide such information in a more systematic manner.

V. Recommendations for further action

102. The human rights treaty bodies have specific functions within the overall human rights activities of the United Nations. Strategies for further strengthening gender mainstreaming need to take these into account, including in terms of accountability. Progress requires action in several different areas. The following recommendations are addressed primarily to the treaty bodies themselves, but also to States parties, the Committee secretariats, entities of the United Nations system and non-governmental organizations.

103. The explicit commitment of the Committees to contributing to the achievement of gender equality is a first prerequisite, and is expressed in actions already taken by most of the treaty bodies in follow-up to the Vienna Declaration and Programme of Action, the Fourth World Conference on Women and the recommendations of the chairpersons. To different degrees, such steps and measures remain of an ad hoc nature and indicate that there are differing views within and among the Committees of the appropriateness of such actions. There remains a need for ongoing discussion by the treaty bodies on the relevance of gender in international human rights law so that efforts can be systematized and gender mainstreaming can proceed in a predictable and sustained manner.

104. It is recommended that treaty bodies review actions already taken with regard to the amendment of reporting guidelines, the preparation of lists of issues and of concluding comments/observations, to ensure that explicit attention is paid, in a systematic manner, to gender dimensions in the consideration of the reports of States parties. Treaty bodies could also adopt explicit decisions on mainstreaming and identify specific gender-related facts to guide their work, for example in their general comments/recommendations.

105. In requesting data and information disaggregated by sex, and specific information with regard to the situation of women in reporting guidelines, lists of issues and during oral questioning it is recommended that this be not limited to separate, women-specific sections or presented primarily in conjunction with women's reproductive functions or responsibilities for children. Rather, a mainstreaming approach requires that particular rights, and measures taken for their implementation be assessed with regard to women's and men's ability to benefit from these rights and the particular measures taken for their implementation. Interaction with States parties concerning such information in the lists of issues and in the oral questions should be pursued in a more systematic manner.

106. The language used by Committees is also relevant. Consistent use of masculine pronouns or of situations primarily experienced by men suggests lack of concern for women's enjoyment of human rights.

107. Drawing explicit linkages between incompatibility of certain actions or denial of rights for women and rights in specific treaties is essential to clarify the meaning of human rights from a gender perspective. To conceptualize, for example, a certain law or practice as a violation of the International Covenant on Civil and Political Rights under article 12 (freedom of movement) from a gender perspective rather than as a non-fulfilment of article 3 allows for recognition of systemic disadvantage encountered by women regarding that particular right. This goes beyond an assessment of the equal enjoyment guarantee of article 3. In other words, article 3 assessments alone will not necessarily reveal, from a substantive point of view, the gendered meaning and obligations of article 12. In this regard, the work of the Human Rights Committee in conjunction with women's rights under articles 6 and 7 sets an example that could be expanded to other articles of the Covenant and widely considered by all treaty bodies.

108. In addition to the efforts of the Committees to elaborate general comments/recommendations or conduct general discussions on specific articles or issues of particular relevance to women and the girl child, the Committees should also address gender factors and issues arising in conjunction with other rights. The formulation of general comments on common article 3 of the two International Covenants offers the opportunity for a comprehensive elaboration of the meaning of this article in conjunction with all other substantive articles of the Covenants. The ongoing work of treaty bodies in preparing and/or updating general comments/recommendations also offers opportunities to incorporate new insights on the impact of gender on the interpretation of all the other substantive articles of the treaties and their implementation. The recent work of some of the Committees suggests that a revisiting of past general comments/recommendations (for example of general comment 6 on article 6, or 20 on article 7 by the Human Rights Committee) would be timely.

109. Treaty bodies could consider whether mechanisms such as early warning procedures and inquiry mechanisms might provide further opportunities for reviewing situations characterized by serious gender-based violations of rights. For example, human rights mechanisms, including special rapporteurs, reported on gender-based violations of the rights of women belonging to certain ethnic and/or religious groups at various stages of the conflict in the former Yugoslavia. This, or similar occurrences, might provide opportunities for the Committee on the Elimination of Racial Discrimination to monitor gender-specific violations under its early warning mechanism.

110. The establishment of joint working groups, or cooperation among Committee members designated to prepare drafts for general comments/recommendations with members of the Committee on the Elimination of Discrimination against Women could be pursued. In conjunction, the parallel drafting of general comments/recommendations on articles 7 and 8 by the Committee on the Elimination of Discrimination against Women and article 25 by the Human Rights Committee, and ongoing work on article 12 by the Committee on the Elimination of Discrimination against Women and article 12 by the Committee on Economic, Social and Cultural Rights, offered opportunities for increasing such cooperation. General awareness about ongoing work on general comments/recommendations should therefore be increased. When scheduling days of general discussion, Committees could encourage the participation of persons/organizations having particular expertise on the gender dimensions of the topic. Meetings of members from all treaty bodies on particular rights, such as the round table on "Human Rights Approaches to Women's Health" (para. 11 above) could be replicated.

111. Treaty bodies have strengthened their cooperation with non-governmental organizations (NGOs), and increased opportunities to submit gender-specific information relating to States parties' reports. While women-specific NGOs have in recent years increased their input to the work of some of the treaty bodies, and thus contributed to their ability to focus on gender factors, this has not been done in the same, sustained way with all the treaty bodies. Efforts are therefore needed on the part of women-specific NGOs to provide such gender-specific input to the work of all treaty bodies. Efforts are also needed to improve awareness on the part of NGOs working in the field of human rights, some of whom have recently begun to develop an interest in women's human rights, about the relevance of gender issues in their work.

112. In order to strengthen the knowledge base about the impact of gender on the conceptualization and implementation of human rights, treaty bodies could call on their secretariats to commission, and on NGOs and the academic community to undertake, studies that would contribute to the clarification of the gender dimensions of rights. Such studies might, for example, explore the intersection of race and gender in the context of the Convention on the Elimination of All Forms of Racial Discrimination.

113. Cooperation between the five mainstream treaty bodies and the Office of the United Nations High Commissioner for Human Rights on the one hand, and the women-specific treaty body and the Division for the Advancement of

Women, on the other, is important. To that end, the Office of the United Nations High Commissioner for Human Rights, in collaboration with the Division for the Advancement of Women, should, in a more systematic manner, bring to the attention of treaty bodies the results of the Committee on the Elimination of Discrimination against Women. Information on the practices of mainstream human rights treaty bodies, as well as their concluding comments, is regularly provided to the Committee by its secretariat. The converse should also be done. The lists of issues for reporting States should also be exchanged. Briefings could be organized on a regular basis for new members of Committees on gender issues and on relevant work done elsewhere in the United Nations system. Channels of communication should be established between members of the mainstream treaty bodies designated to follow the work of the Committee on the Elimination of Discrimination against Women and its secretariat to facilitate the regular provision of information to them. The names of designated members should be communicated to the relevant secretariat.

114. Efforts should be undertaken to improve normative consistency among the treaty bodies in concluding comments and general comments/recommendations. Pending the completion of readily accessible databases on the jurisprudence of all of the treaty bodies, the secretariats of the treaty bodies should provide pertinent background information. The appointment of Committee members to follow the work of other treaty bodies and to provide regular briefs thereon could also be pursued to facilitate achievement of this goal.

115. Proposals that treaty bodies, in cooperation with each other, prepare reporting guidelines for each of the instruments indicating what material prepared for the purpose of one instrument might satisfy the requirements for information under particular articles of another instrument should be pursued. Building on the core documents that are already being prepared by many States parties, this could lead to the preparation of "modules of information" for inclusion in reports to each relevant treaty body.

116. Entities of the United Nations system should build on the current practice of submitting information to treaty bodies and submit gender-specific information within the scope of the respective treaty.

117. States parties should provide information disaggregated by sex to all treaty bodies and should prepare their reports in a gender-sensitive way, ensuring that the factors women encounter in the enjoyment of rights are made explicit.[74] Information submitted to the Committee on the Elimination of Discrimination against Women should be adapted more systematically and submitted to other treaty bodies under relevant articles.

Notes

[1] A/52/507, para. 62.

[2] A/CONF.157/24 (Part I), chap. III, sect. II.B, para. 42.

[3] See Commission on the Status of Women resolution 38/2 of March 1994, recommending that the chairpersons consider the issue of mainstreaming women's human rights on a regular basis.

[4] A/52/507. The reports of the chairpersons since their fifth meeting are contained in documents A/49/537, A/50/505, A/51/482, A/52/507 and A/53/125.

[5] Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995 (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annex I, para. 38 and annex II, para. 229.

[6] Ibid., annex II, para. 222.

[7] See *Official Records of the General Assembly, Fifty-second Session, Supplement No. 3* (A/52/3), chap. IV, sect. A.

[8] The definition reads: "Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality."

[9] Agreed conclusions 1997/2 were subsequently endorsed by the General Assembly in resolution 52/100.

[10] While several United Nations human rights mechanisms use the term "integration of gender perspectives", the term commonly used by all other United Nations entities is "mainstreaming a gender perspective", or "gender mainstreaming" (see, for example, the Platform for Action, ECOSOC agreed conclusions 1997/2 and General Assembly resolution 52/100; the report of the Secretary-General contained in A/51/322, paras. 7–15, discusses the concept and implications of "mainstreaming a gender perspective"). In both instances, it is a conceptual approach to achieving the goal of gender equality.

[11] E/1998/84, para. 18.

[12] Report of the expert group meeting on the development of guidelines for the integration of gender perspectives into human rights activities and programmes, E/CN.4/1996/105.

[13] The summary of proceedings and recommendations of the round table has been published by the United Nations Population Fund. It is also available on the Fund's Web site (http://www.unfpa.org).

[14] The United Nations Development Programme, the United Nations Children's Fund and the United Nations Population Fund have developed policies to increase attention to human rights in their work.

[15] Statements were made by the United Nations High Commissioner for Human Rights, the Administrator of the United Nations Development Programme, the Executive Director of the United Nations Children's Fund, the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women and a representative of the Office for the Coordination of Humanitarian Affairs.

[16] The meeting will be attended by members of the Inter-Agency Committee on Women and Gender Equality and by members of the Organisation for Economic Cooperation and Development Development Assistance Committee Working Party on Gender Equality. The Commission on the Status of Women, in its agreed conclusions on "Human Rights of Women", supported the convening of this workshop. See *Official Records of the Economic and Social Council, 1998, Supplement No. 7* (E/1998/27), chap. I.B., draft resolution IV, sect. III.C.

[17] A/44/668, A/CONF.157/PC/62/Add.11/Rev.1, E/CN.4/1997/74.

[18] The ninth (extraordinary) meeting of the chairpersons was convened as a three-day meeting to pursue the reform process aimed at improving the effective implementation of international instruments on human rights. The report of the meeting is contained in A/53/125.

[19] In its own discussions regarding the restructuring and revitalization of the United Nations in the economic, social and related fields and the integrated and coordinated implementation and follow-up of major United Nations conferences and summits, the Economic and Social Council has increased its attention to gender issues and to the mainstreaming of a gender perspective in all policies and programmes. See, for example, ECOSOC resolutions 1998/46 and E/1998/44.

[20] This section draws largely from the report of the Secretary-General on the thematic issues before the Commission on the Status of Women at its forty-second session, E/CN.6/1998/5, paras. 91–93, and the report of the expert group meeting "Promoting women's enjoyment of their economic and social rights", convened by the Division for the Advancement of Women from 1–4 December 1997. The report, EGM/WESR/1997/Report, is available from the DAW Web site (http://www.un.org/womenwatch/daw). The Secretary-General's report on "Women's real enjoyment of their human rights, in particular those relating to the elimination of poverty, economic development and economic resources" (E/CN.6/1998/11–E/CN.4/1998/22) also discusses how women's gender roles impact on their ability to access rights, resources and opportunities, and treatment on an equal basis (see especially paras. 19–23).

[21] See A/51/322, paras. 7–14. Gender, gender roles and relations are discussed, *inter alia*, in *1994 World Survey on the Role of Women in Development*, pp. 1–4. United Nations publication, Sales No. E.95.IV.1.

[22] A/CONF.157/PC/62/Add.11/Rev.1, paras. 156–163.

[23] ECOSOC agreed conclusions 1997/2 emphasize the continuing relevance of a dual strategy for achieving gender equality. On the relevance of gender in international human rights law and practice see Andrew Byrnes, *Women, Feminism and International Human Rights Law – Methodological Myopia, Fundamental Flaws or Meaningful Marginalization?*, The Australian Yearbook of International Law, vol. 12, 1992.

[24] There is now an extensive body of writing available on gender mainstreaming. The Division for the Advancement of Women has prepared an annotated bibliography on gender mainstreaming including in the area of human rights, available on its Web site (http://www.un.org/womenwatch/daw). See also "Gender mainstreaming: conceptual framework, methodology and presentation of good practices. Final report of activities of the Group of Specialists on Mainstreaming", Council of Europe, Strasbourg, May 1998 (http://www.dhdirhr.coe.fr), and a paper presented by Dr. Christopher McCrudden, University of Oxford, at the International Conference on Comparative Non-Discrimination Law, 22–24 June 1998, Utrecht, the Netherlands.

[25] The following documentation formed the basis of the analysis: summary records of the treaty bodies' consideration of States parties reports since mid-1993 as available; a complete set of concluding comments issued by treaty bodies between mid-1993 and the end of 1997, contained in the Committees' annual reports; annual reports of the Committee on the Elimination of Racial Discrimination: A/48/18 (starting from the Committee's forty-third session in August 1993), A/49/18, A/50/18, A/51/18, A/52/18; annual reports of the Committee against Torture: A/49/44, A/50/44, A/51/44, A/52/44; annual reports of the Human Rights Committee: A/49/40, vol. I; A/50/40, vol. I; A/51/40, vol. I; A/52/40, vol. I; and concluding comments from 61st session (October 1997); annual reports of the Committee on Economic, Social and Cultural Rights: E/1994/23 (starting from the Committee's ninth session), E/1995/22, E/1996/22, E/1997/22, E/1998/22. Annual reports of the Committee on the Rights of the Child: A/49/41 (starting from the Committee's fourth session in October 1993), A/51/41; and the concluding comments from the Committee's twelfth to sixteenth sessions from July 1996 to October 1997.

[26] See CERD/C/SR.1166, paras. 40 to 56 for various views expressed (14 August 1996).

[27] While the Platform for Action uses the term "gender-disaggregated data", the term "data disaggregated by sex" is the demographically correct terminology.

[28] During the period under review, the Committee adopted approximately 110 concluding observations. Approximately 25 of those are of a largely procedural nature dealing with the non-submission of reports, the deferral of consideration of reports or the non-participation of representatives of States parties in the dialogue.

[29] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 18* (A/51/18), para. 239.

[30] Ibid., *Forty-eighth Session, Supplement No. 18* (A/48/18), paras. 376 and 380, respectively.

[31] Ibid., *Fiftieth Session, Supplement No. 18* (A/50/18), paras. 566 and 570, respectively.

[32] Ibid., *Fifty-second Session, Supplement No. 18* (A/52/18), para. 521.

[33] Ibid., *Fifty-first Session, Supplement No. 18* (A/51/18), Zimbabwe, ibid., para. 93, and Namibia, para. 497.

[34] Example of Morocco, CERD/C/SR.1021 and A/49/18, para. 217.

[35] HRI/GEN/1/Rev.3 and A/52/18.

[36] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 18* (A/51/18), para. 626.

[37] Examples include the Libyan Arab Jamahiriya, CAT/C/SR.203, the United Kingdom of Great Britain and Northern Ireland, CAT/C/SR.234, Senegal, CAT/C/SR.247, and the Russian Federation, CAT/C/SR.264.

[38] CAT/C/SR.285.

[39] CAT/C/SR.284/Add.1, Ukraine.

[40] Peru, CAT/C/SR.193, Libyan Arab Jamahiriya, CAT/C/SR.201, Morocco, CAT/C/SR.203.

[41] Republic of Korea, CAT/C/SR.266.

[42] *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 44* (A/49/44), para. 21.

[43] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 44* (A/51/44), paras. 14 and 16.

[44] May 1998, information taken from the summary records of the meeting.

[45] See Turkey, *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 44* (A/48/44/Add.1), and Egypt, A/51/44.

[46] *Official Records of the General Assembly, Fiftieth Session, Supplement No. 40* (A/50/40), annex VII.

[47] Ibid., chap. III, para. 43.

[48] *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40* (A/49/40), see Japan, para. 101.

[49] Ibid., see Cameroon, para. 185.

[50] Examples include Jordan, Togo and Cyprus, see A/49/40, Bolivia and India, see A/52/40.

[51] Examples include Paraguay and Sri Lanka, see A/50/40, Switzerland, see A/52/40, and Lithuania, considered at the sixty-first session.

[52] Examples include Slovenia, see A/49/40, Zambia, see A/51/40, Georgia and France, see A/52/40.

[53] Examples include Tunisia, see A/50/40, Nigeria, see A/51/40, and Lebanon, see A/52/40.

[54] Examples include Nepal, Yemen and the Russian Federation, see A/50/40, Mauritius, Guatemala and the Sudan, considered at the sixty-first session.

[55] *Official Records of the General Assembly, Fifty-second Session, Supplement No. 40* (A/52/40), paras. 160 and 167, respectively.

[56] Ibid., paras. 287 and 300, respectively.

[57] Ibid., report of Lebanon, para. 348.

[58] Ibid., para. 17, stating that "At each of the Committee's sessions, the Representative of the Secretary-General informed the Committee about activities carried on by United Nations bodies dealing with human rights issues ... results of the ... sessions of the CEDAW Committee ... were presented to the Committee".

[59] The Committee's report at its 16th and 17th sessions (E/1998/22, para. 523) noted that it would return to this issue at its 18th session (April 1998). Information currently available does not reveal what action was taken.

[60] *Official Records of the Economic and Social Council, 1996, Supplement No. 2* (E/1996/22), annex VI.

[61] Ibid., paras. 377–380.

[62] The Gambia, Republic of Korea and Paraguay, see E/1997/22.

[63] Mauritius, see E/1995/22, Algeria, see E/1996/22.

[64] Examples include Austria, see E/1995/22, Portugal and Ukraine, see E/1996/22, Spain and Belarus, see E/1997/22, and Uruguay, see E/1998/22.

[65] Examples include Germany, see E/1994/22, Morocco, see E/1996/22, and Peru, see E/1998/22.

[66] Examples include Surinam, see E/1996/22, Guatemala and Guinea, see E/1997/22 and the Russian Federation, see E/1998/22.

[67] HRI/GEN/1/Rev.3, general comment 4, para. 6.

[68] HRI/GEN/1/Rev.3, general comment 5, para. 19.

[69] *Official Records of the Economic and Social Council, 1998, Supplement No. 2* (E/1998/22), para. 522.

[70] This was the case when the Committee on Economic, Social and Cultural Rights considered the state of implementation of the Covenant in Saint Vincent and the Grenadines, making use of the report that that State party had submitted to the Committee on the Elimination of Discrimination against Women (E/1998/22, paras. 409 to 437).

[71] E/1996/22, annex VI, para. 11.

[72] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 41* (A/51/41).

[73] A consultation on violence in the family is scheduled for 8–9 October 1998 in Geneva.

[74] Commission on the Status of Women agreed conclusions on human rights of women, E/1998/27, "ensure that their periodic reports to treaty monitoring bodies mainstream a gender perspective".